

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE A. MAGANA,
Plaintiff,

v.

RENE BAKER, et al.,
Defendants.

Case No.: 3:22-cv-00563-ART-CSD

ORDER

On December 23, 2022, pro se plaintiff Jose A. Magana, an inmate in the custody of the Nevada Department of Corrections, submitted a complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). Plaintiff's application to proceed *in forma pauperis* is incomplete because he has not submitted a financial certificate or an inmate account statement for the previous six-month period with his application. Moreover, instead of using this Court's approved form for applications to proceed *in forma pauperis* by inmates, Plaintiff completed a form used in Nevada state court. The Court will deny Plaintiff's application without prejudice and give Plaintiff the opportunity to correct these deficiencies **by February 27, 2023**.

I. DISCUSSION

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. See 28 U.S.C. § 1914(b). "Any person who is unable to prepay the fees in a civil case may apply

1 to the court for leave to proceed *in forma pauperis*.” Nev. Loc. R. Prac. LSR 1-1. For an
 2 inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the
 3 following documents to the Court: (1) a completed **Application to Proceed in Forma**
 4 **Pauperis for Inmate**, which is pages 1–3 of the Court’s approved form, that is properly
 5 signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is
 6 page 4 of the Court’s approved form, that is properly signed by both the inmate and a
 7 prison or jail official; and (3) a copy of the **inmate’s prison or jail trust fund account**
 8 **statement for the previous six-month period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev.
 9 Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her
 10 obligation to pay the filing fee; it just means that the inmate can pay the fee in installments.
 11 See 28 U.S.C. § 1915(b).

12 As explained above, Plaintiff’s application to proceed *in forma pauperis* is
 13 incomplete. The Court will therefore deny Plaintiff’s application to proceed *in forma*
 14 *pauperis* without prejudice and grant Plaintiff an extension of time to either pay the filing
 15 fee or file a new fully complete application to proceed *in forma pauperis* with all three
 16 required documents.

17 **II. CONCLUSION**

18 It is therefore ordered that the application to proceed *in forma pauperis* (ECF No. 1)
 19 is denied without prejudice.

20 It is further ordered that Plaintiff has **until February 27, 2023** to either pay the full
 21 \$402 filing fee or file a new fully complete application to proceed *in forma pauperis* with
 22 all three required documents: (1) a completed application with the inmate’s two signatures
 23 on page 3, (2) a completed financial certificate that is signed both by the inmate and the
 24 prison or jail official, and (3) a copy of the inmate’s trust fund account statement for the
 25 previous six-month period.

26 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if
 27 Plaintiff fails to timely comply with this order. A dismissal without prejudice allows Plaintiff
 28 to refile the case with the Court, under a new case number, when Plaintiff can file a

1 complete application to proceed *in forma pauperis* or pay the required filing fee.

2 The Clerk of the Court is directed to send Plaintiff Jose A. Magana the approved
3 form application to proceed *in forma pauperis* for an inmate and instructions for the same
4 and retain the complaint (ECF No. 1-1) but not file it at this time.

5 DATED THIS 29th day of December 2022.

6
7 
8 UNITED STATES MAGISTRATE JUDGE
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28